

HOUSE BILL REPORT

ESSB 6800

As Reported by House Committee On:
Transportation

Title: An act relating to streamlining state transportation governance.

Brief Description: Refining the roles of the transportation commission and department of transportation.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Haugen, Jacobsen and Rockefeller; by request of Governor Gregoire).

Brief History:

Committee Activity:

Transportation: 2/20/06, 2/23/06 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Modifying the powers, functions, and duties of the Department of Transportation and the Washington Transportation Commission relating to state transportation policy, planning, and oversight.
- Transitioning certain functions of the Transportation Performance Audit Board to the Office of Financial Management and the State Auditor.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 16 members: Representatives Murray, Chair; Wallace, Vice Chair; Appleton, Clibborn, Dickerson, Flannigan, Hudgins, Kilmer, Lovick, Morris, Sells, Simpson, B. Sullivan, Takko, Upthegrove and Wood.

Minority Report: Do not pass. Signed by 12 members: Representatives Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Buck, Curtis, Ericksen, Hankins, Holmquist, Jarrett, Nixon, Rodne, Schindler and Shabro.

Staff: David Bowman (786-7339).

Background:

In 2005, the Legislature restructured statewide transportation governance, including among other things making the Washington State Department of Transportation (DOT) a cabinet level agency, with the Secretary of Transportation to be appointed by the Governor. The

Secretary assumed authority previously directed to the Washington Transportation Commission (Commission) to propose the DOT agency budget and to authorize departmental request legislation.

Since the restructure, the Commission has had several responsibilities and roles in state transportation policy development, including:

- statewide transportation planning;
- issuance and sale of all bonds authorized by the Legislature for capital construction of state highways, toll facilities, urban arterial projects, and aviation facilities;
- functional highway classification, and designation of highways of statewide significance;
- adopting a comprehensive 10-year investment program;
- establishing performance measures and certifying local public transportation agency maintenance and preservation management plans;
- preparing a statewide multi-modal transportation progress report; and
- serving as the state's tolling authority and setting ferry fares.

Performance review and auditing of transportation-related agencies has been prescribed in several recent enactments. The 2005 restructure gave the Transportation Performance Audit Board (TPAB) authority to direct performance audits and to review performance measures and outcomes of transportation-related agencies and certain local transportation entities. Meanwhile, in November 2005, voters approved Initiative 900, requiring the State Auditor to conduct performance audits of state and local governments including "state and local transportation governmental entities and each of their agencies, accounts, and programs." The State Auditor is thus required to conduct performance audits upon transportation agencies. Initiative 900 dedicated a percentage of the state sales and use tax for this purpose, and, in 2005, the Legislature appropriated \$4 million to the State Auditor for this purpose.

The Transportation Innovative Partnerships (TIP) program was created to enable the DOT to enter into partnerships with private entities for the development of transportation facilities. The Commission has several responsibilities relating to the TIP program, including enacting rules for the proper acceptance, review, evaluation and selection of projects. After a tentative development agreement has been reached on an identified project, the Commission must publish the proposed contract for 20 days, followed by a hearing to receive public comment. After receiving public comment and approving a public involvement plan, the Commission may execute the contract.

Summary of Amended Bill:

The roles and responsibilities of the DOT and the Commission are modified.

The DOT obtains the following responsibilities, in addition to various administrative duties, from the Commission:

- adopting the comprehensive and balanced statewide transportation plan;

- developing a comprehensive investment program, including programming and prioritization standards;
- overseeing the TIP program, with oversight and approval by the Governor;
- approving the issuance and sale of bonds for capital highway construction; and
- adopting a functional classification of highways, including the designation of highways of statewide significance.

The Commission retains the following powers, functions, and duties (among others):

- conducting public outreach;
- setting tolls and ferry fares; and
- recommending to the Governor and the Legislature improvements in certain transportation issue areas.

The composition and procedures of the Commission are modified in several ways:

- the Governor may remove a Commissioner "for cause," without necessarily being based on a superior court determination of incapacity, incompetence, neglect of duty, or malfeasance in office;
- limits on the number of terms a Commissioner may serve are removed;
- the length of a Commissioner term is limited to four years;
- the Governor appoints the Commission chair;
- the Commission may meet at such times it deems advisable; and
- the authority of the Commission to adopt its own rules and regulations is eliminated.

The TPAB is extended until July 1, 2007, to transition its certain functions to other agencies during that time. The function of reviewing performance benchmarks of transportation agencies will transition to the Office of Financial Management (OFM). The function of conducting performance audits will transition to the State Auditor, consistent with its responsibilities since the enactment of Initiative 900.

The statute creating the Office of Transit Mobility, and the statute that sets forth the state's transportation benchmarks and goals, are retained. Intent and findings language is omitted.

Amended Bill Compared to Engrossed Substitute Bill:

The following functions that are currently held by the Commission are transferred to the DOT: (1) developing the statewide transportation plan; (2) day-to-day functions of the Transportation Innovative Partnerships (TIP) program, with oversight and approval by the Governor; (3) proposing state transportation policy; (4) approving the issuance and sale of bonds secured by TIP projects, in addition to approving the issuance and sale of bonds for capital construction; and (5) developing a sixteen-year comprehensive investment program.

The composition, qualifications, and procedures of the Commission are modified in several ways. Commissioner terms are reduced to four years from six. The Governor is given the power and duty to appoint the Commission chair. The Commission does not have to meet

monthly, but may meet at times it deems advisable. The authority of the Commission to adopt its own rules and regulations is eliminated.

The TPAB is extended one year, during which time its performance review function transitions to the OFM and its performance audit function transitions to the State Auditor. The transit mobility office statute, and the statute that sets forth the state's transportation benchmarks and goals, are retained.

Ministerial changes are made regarding agency review of local maintenance and preservation management plans.

Appropriation: None.

Fiscal Note: Available for original bill.

Effective Date of Amended Bill: The bill takes effect on July 1, 2006.

Testimony For: It is important to have a strong Commission, to have an independent body to which the Governor and the Legislature can look in establishing and implementing state transportation policy. An independent agency like the Commission will promote transparency in transportation decision making, and allow performance reviews of transportation agencies independent of the State Auditor's performance audit function. Additionally, the functions of setting ferry fares and tolls should be done by a separate agency, not by the DOT. This legislation is a reasonable "middle ground" in the realignment of state transportation governance.

(Concerns) While this is a step in the right direction, it does not go far enough in shifting functions from the Commission to the DOT, and additionally may cause administrative problems within the OFM.

Testimony Against: None.

Persons Testifying: Senator Haugen, prime sponsor; Dan O'Neal and Dick Ford, Transportation Commission; and Duke Schaub, Association of General Contractors of Washington.

(Concerns) Robin Rettew, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.